

REMARKS

Examiner has rejected claims 24, 31, and 39 under 35 U.S.C. §103(a) as unpatentable over Wenzel (GB 2339926) and May et al (US 2005/0197533) ("May II"). Examiner acknowledges that Wenzel is silent as to the light sources being rotatable relative to the video camera, but Examiner contends this feature is disclosed in May II. The following is a quotation of 35 U.S.C. §103(a) which formed the basis for all obviousness rejections set forth in the office action: "A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art..." (emphasis added).

Applicant traverses the rejection of the above claims on the basis that the feature in May II cited by the Examiner were not known at the time the invention was made. Indeed, the features in May II were not known at the time the current application was filed; that is, January 13, 2004. May II claims priority to provisional application 60/625,640, filed November 4, 2004. May II is also a continuation in part of application 10/162,526 ("May I") which is now patent 6,855,106. May I was filed June 3, 2002. The feature which Examiner points to in May II as reading on claims 24, 31, and 39 (i.e., "a similar endoscope 900 comprised of a rotatable insertion tube 901 and a light port 903 that are able to rotate about a longitudinal axis independently from an eyepiece or camera mount section 904") are not present in May I. Those features were disclosed only in the provisional application, see page 4, lines 20-30, which was filed after the current application. Thus, it is improper to consider May II as indicative of the level of ordinary skill in the art at the time the invention was made.

For at least this reason, Applicant submits that claims 24, 31, and 39 are allowable. Furthermore, the remaining pending claims are allowable for this reason, since they depend from claims 24, 31, or 39. Finally, it is noted that there are other arguments as to the patentability of all pending claims which were not raised in the name of brevity and clarity. Applicant's failure to respond to any point made by the Examiner in the office action, or Applicant's failure to raise alternative arguments, is not meant to concede any point or waive any argument.

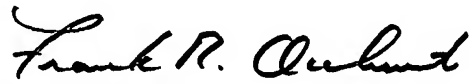
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It is not believed any additional fees are due. If this is an error, please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket Number 00167-448002.

Respectfully submitted,

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